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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**
11

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 UNITED MICROELECTRONICS
CORPORATION; FUJIAN JINHUA
16 INTEGRATED CIRCUIT, CO., LTD.; CHEN
ZHENGKEN, a.k.a. STEPHEN CHEN; HE
17 JIANTING, a.k.a. J.T. HO; and WANG
YUNGMING, a.k.a. KENNY WANG,

18 Defendants.
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CASE NO. 3:18-CR-00465-MMC

**DECLARATION OF LESLIE R.
CALDWELL IN SUPPORT OF
DEFENDANT UNITED
MICROELECTRONICS
CORPORATION'S RESPONSE TO
UNITED STATES' MOTION FOR ENTRY
OF PROTECTIVE ORDER**

Date: October 9, 2019
Time: 2:15 p.m.
Location: Courtroom 7, 19th Floor
Judge: Hon. Maxine M. Chesney

1 I, Leslie R. Caldwell, declare as follows:

2 1. I am a partner at the law firm of Latham & Watkins LLP (“Latham”) and counsel
3 for Defendant United Microelectronics Corporation (“UMC”) in the above-captioned case. I am
4 an attorney in good standing in the State of California, and am admitted to practice before this
5 Court. I make this declaration in support of UMC’s Response to the United States’ Motion for
6 Entry of Protective Order (“UMC’s Response”). I have personal knowledge of the facts set forth
7 in this Declaration, and if called upon as a witness, I could and would testify competently as to
8 these facts.

9 2. I am informed by my Hong Kong-based Latham partner that an attorney from
10 Jones Day (Micron’s outside counsel) based in Jones Day’s Hong Kong office has attended
11 meetings on behalf of Micron in Mainland China regarding the civil case of *Micron Tech., Inc. v.*
12 *United Microelectronics Corp.*, Case No. 3:17-cv-06932-MMC.

13 3. Attached hereto as **Exhibit A** is a true and correct copy of the Forbes article, *Best*
14 *Countries for Business – 2018 Ranking*, available at [https://www.forbes.com/best-countries-for-](https://www.forbes.com/best-countries-for-business/list/)
15 [business/list/](https://www.forbes.com/best-countries-for-business/list/) (last visited Sept. 24, 2019).

16 4. Attached hereto as **Exhibit B** is a true and correct copy of an excerpt of the
17 *Report on 2018 Annual Survey of Companies in Hong Kong with Parent Companies Located*
18 *Outside Hong Kong* from the Census and Statistics Department of the Hong Kong Special
19 Administrative Region, published in October 2018, available at
20 <https://www.statistics.gov.hk/pub/B11100042018AN18B0100.pdf>.

21 5. Attached hereto as **Exhibit C** is a true and correct copy of the article, *Why Hong*
22 *Kong? Sound Legal Framework*, from the Government of the Hong Kong Special Administrative
23 Region of the People’s Republic of China, revised July 29, 2019, available at
24 <https://www.ip.gov.hk/en/sound-legal-framework.html> (last visited Sept. 24, 2019).

25 6. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from The
26 Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China,
27 Adopted at the Third Session of the Seventh National People’s Congress on April 4, 1990,
28 Promulgated by Order No. 26 of the President of the People’s Republic of China on

1 April 4, 1990, Effective as of July 1, 1997), L.H.K. BLIS Cap. 2101 (unofficial numbered
2 chapter).

3 7. Attached hereto as **Exhibit E** is a true and correct copy of the *International*
4 *Covenant on Civil and Political Rights*, adopted and opened for signature, ratification and
5 accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force
6 23 March 1976, in accordance with Article 49, from the United Nations Human Rights, Office of
7 the High Commissioner, *available at*
8 <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

9 8. Attached hereto as **Exhibit F** is a true and correct copy of the Verified Copy of
10 The Laws of Hong Kong, Hong Kong Bill of Rights Ordinance, Cap. 383, version dated
11 February 15, 2017, *available at* <https://www.elegislation.gov.hk/hk/cap383>.

12 9. Attached hereto as **Exhibit G** is a true and correct copy of The Laws of Hong
13 Kong, Interception of Communications and Surveillance Ordinance, Cap. 589, last update
14 June 24, 2006, *available at*
15 https://www.elegislation.gov.hk/hk/cap589?xpid=ID_1438403494036_002.

16 10. Attached hereto as **Exhibit H** is a true and correct copy of the Verified Copy of
17 The Laws of Hong Kong, Personal Data (Privacy) Ordinance, Cap. 486, version dated
18 April 20, 2018, *available at* <https://www.elegislation.gov.hk/hk/cap486>.

19 11. Attached hereto as **Exhibit I** is a true and correct copy of an excerpt from DLA
20 Piper's *Legal Privilege Global Guide*, last updated March 15, 2019, *available at*
21 <https://www.dlapiperintelligence.com/legalprivilege/insight/index.html>.

22 12. Attached hereto as **Exhibit J** are true and correct copies of webpages of financial
23 entities and institutions referenced in UMC's Response: JPMorgan Chase BK NA/JPMorgan
24 Chase & Co.'s *About Us* webpage, *available at*
25 <https://www.jpmorgan.com/country/HK/EN/about>; Citigroup Inc.'s webpage, *Countries &*
26 *Jurisdictions: Hong Kong SAR*, *available at* [https://www.citigroup.com/citi/about/countries-and-](https://www.citigroup.com/citi/about/countries-and-jurisdictions/hong-kong.html)
27 [jurisdictions/hong-kong.html](https://www.citigroup.com/citi/about/countries-and-jurisdictions/hong-kong.html); Wells Fargo & Co.'s *Asia Pacific Region & International*
28 *Locations and Contacts* webpages, *available at*

<https://www.wellsfargo.com/com/international/businesses/apac/> and
<https://www.wellsfargo.com/com/international/locations/>; Goldman Sachs Group, Inc.'s *Greater China Offices* webpages, available at <https://www.goldmansachs.com/worldwide/greater-china/index.html> and <https://www.goldmansachs.com/worldwide/greater-china/locations.html>; Morgan Stanley's, *Office Locations in Hong Kong* webpage, available at <https://www.morganstanley.com/about-us/global-offices/asia-pacific/hong-kong>; Bank of America Merrill Lynch's *Locations Information*, available at https://www.bofaml.com/content/boaml/en_us/locations.html/#/AsiaPacific; State Street Corporation's webpages, *State Street in Hong Kong*, as of December 31, 2018, available at <http://www.statestreet.com/about/office-locations/hong-kong.html> and *Contact Us*, available at <http://www.statestreet.com/about/office-locations/hong-kong/contact-us.html>, (collectively, last visited Sept. 24, 2019).

13. Attached hereto as **Exhibit K** are true and correct copies of webpages of technology, biotechnology, engineering, and pharmaceutical companies referenced in UMC's Response: Emerson Electric Co.'s webpage, *About Us: Emerson in China*, available at <https://www.emerson.cn/en-cn.about-us> (last visited Sept. 25, 2019); Honeywell International Inc.'s webpage, *Global Locations: Asia Pacific*, available at <https://www.honeywellaidc.com/about-us/global-locations#APAC>; Qualcomm's webpage, *Offices in Peoples Republic of China*, available at <https://www.qualcomm.com/company/facilities/offices?country=Peoples%20Republic%20of%20China>; Nvidia's webpage, *Our Locations: Asia Regional Offices*, available at <https://www.nvidia.com/en-us/contact/asia/>; Pfizer's *Contact Us* webpage, available at <https://www.pfizer.com.hk/en/contact-us>; Amgen's *Contact Us* webpage, available at <https://www.amgen.com.hk/contact-us/>; Allergan's webpage, *Allergan In Hong Kong*, available at <https://www.allergan.com/about/global-locations/countries/hong-kong>; Eli Lilly & Co.'s *Contact Us* webpage, dated March 2019, available at <https://www.lilly.com.hk/en/contact-us.aspx>; Dow Chemical's *Greater China Office* webpage, available at <https://cn.dow.com/zh-cn/contact-us/locations>, (collectively, last visited Sept. 24, 2019).

1 14. Attached hereto as **Exhibit L** are true and correct copies of webpages of
 2 accounting firms referenced in UMC's Response: PricewaterhouseCoopers, *PwC office locations*
 3 *in Hong Kong*, <https://www.pwc.com/gx/en/about/office-locations/hong-kong.html> (last visited
 4 Sept. 25, 2019); KPMG, *Hong Kong SAR*, [https://home.kpmg/xx/en/home/about/offices/hong-](https://home.kpmg/xx/en/home/about/offices/hong-kong-sar-1.html)
 5 *kong-sar-1.html* (last visited Sept. 25, 2019); Deloitte, *China Office Directory*,
 6 https://www2.deloitte.com/cn/en/footerlinks/office-locator.html?icid=bottom_office-locator (last
 7 visited Sept. 25, 2019); Ernst & Young, *Offices in EY Greater China Region*,
 8 <https://www.ey.com/cn/en/home/greater-china-offices> (last visited Sept. 25, 2019).

9 15. Attached hereto as **Exhibit M** are true and correct copies of webpages of law
 10 firms referenced in UMC's Response: Davis Polk & Wardwell LLP's *Hong Kong* webpage,
 11 *available at* <https://www.davispolk.com/offices/hong-kong>; Gibson, Dunn & Crutcher LLP's
 12 *Hong Kong* webpage, *available at* <https://www.gibsondunn.com/office/hong-kong/>; Kirkland &
 13 Ellis LLP's *Hong Kong* webpage, *available at* <https://www.kirkland.com/offices/hong-kong>;
 14 Latham & Watkins LLP's, *Hong Kong* webpage, *available at*
 15 <https://www.lw.com/offices/hongkong>; Morrison & Foerster LLP's, *Hong Kong* webpage,
 16 *available at* <https://www.mofo.com/offices/hong-kong.html>; O'Melveny & Myers LLP's *Our*
 17 *Locations* webpage, *available at* <https://www.omm.com/locations/>; Paul, Weiss, Rifkind,
 18 Wharton & Garrison LLP's webpage, *Locations: Hong Kong*, *available at*
 19 <https://www.paulweiss.com/locations/hong-kong>; Sidley Austin LLP's *Hong Kong* webpage,
 20 *available at* <https://www.sidley.com/en/locations/offices/hong-kong>; Simpson Thacher &
 21 Bartlett LLP's *Hong Kong Office* webpage, *available at* [https://www.stblaw.com/offices/hong-](https://www.stblaw.com/offices/hong-kong?contentId=1)
 22 *kong?contentId=1*; Skadden, Arps, Slate, Meagher & Flom LLP's *Locations* webpage, *available*
 23 *at* <https://www.skadden.com/locations>; Sullivan & Cromwell LLP's *Hong Kong* webpage,
 24 *available at* <https://www.sullcrom.com/Hong-Kong-China>, (collectively last visited
 25 Sept. 24, 2019).

26 16. Attached hereto as **Exhibit N** is a true and correct copy of an excerpt of Rule 1.6,
 27 from the American Bar Association's *Model Rules of Professional Conduct*, *available at*
 28 https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_pr

ofessional_conduct/rule_1_6_confidentiality_of_information/ (last visited Sept. 24, 2019).

17. Attached hereto as **Exhibit O** is a true and correct copy of Micron Technology, Inc.'s webpage, *Micron Locations: China*, available at <https://www.micron.com/about/locations?country=China> (last visited Sept. 24, 2019).

18. Attached hereto as **Exhibit P** is a true and correct copy of the article by Jing Shuiya, *Driving innovation to meet demand*, posted April 24, 2019 at 10:01, in China Daily, available at http://www.chinadaily.com.cn/a/201904/24/WS5cbfc35fa3104842260b7fac_1.html.

19. Attached hereto as **Exhibit Q** is a true and correct copy of Micron Technology, Inc.'s webpage, *Micron Technology, Inc. In China*, <https://www.micron.com/~media/documents/general/about/about-micron-in-china.pdf> (last visited Sept. 25, 2019).

20. Attached hereto as **Exhibit R** are true and correct copies of Jones Day's webpages, *Locations: Hong Kong, Shanghai, Beijing*, <https://www.jonesday.com/en/locations/asia-pacific/hong-kong?tab=overview-8f83bc25-0850-4ade-90ec-800135843289>, <https://www.jonesday.com/en/locations/asia-pacific/shanghai?tab=overview-d8a6753f-ad78-4ca6-890e-a8662e2cf86b>, and <https://www.jonesday.com/en/locations/asia-pacific/beijing?tab=overview-c16c9a6e-a43a-4129-a0a0-a2a7493fbfea> (collectively, last visited Sept. 25, 2019).

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of September, 2019.

By: /s/ Leslie R. Caldwell
Leslie R. Caldwell